bankruptcy. *Citizens Banking Co.* v. *Ravenna Nat. Bank et al.* (1914) 34 Sup. Ct. 806.

The contention of counsel that the act of bankruptcy was committed by failure of respondent to extinguish the lien five days before the expiration of the four months was undoubtedly predicated upon the decisions *In Re Tupper,* 163 Fed. 766; *Folger* v. *Putnam,* 194 Fed. 793, but the Supreme Court repudiates such doctrine unmistakably and in so doing accords with *Seaboard Steel Casting Co.* v. *Trigg,* 124 Fed. 75; *In Re Vastbinder,* 126 Fed. 417; *In Re Vetterman,* 135 Fed. 443; *In Re Truitt,* 203 Fed. 550. The question is a hard one: on the one hand, the Supreme Court's decision makes it possible for an insolvent debtor to prefer one of his creditors by allowing the entry of a judgment and letting it sleep for four months—the judgment lien then becomes immune from attack by the other creditors; on the other hand, the contention that four months' inaction amounts to a "final disposition" of the property subject to the judgment lien is far-fetched and, as pointed out in the principal case, has no basis in the statute, however salutary its effect may be. In the words of the opinion, "a final disposition" used in connection with the statute unquestionably means "an affirmative act of disposal, not a mere lapse of time which leaves the lien intact and still requiring enforcement." Succinctly put, it is an act "having substantially the effect of a sale,—the transfer of ownership and control from one to another."

BANKRUPTCY—STOCKBROKERS—RATABLE DISTRIBUTION OF STOCK.—Bankrupts, who were stock-brokers, having incurred liability to their customers for 280 shares of stock, failed with but 100 shares of such stock in their possession. *Held,* that each customer was entitled, as against the general creditors, to such proportion of the stock in the possession of the brokers at the time of the bankruptcy as the shares which the brokers should have held to his account bore to the total amount of shares which should have been in their possession. *In Re H. B. Hollins & Co.,* (1914) 212 Fed. 317.

The decision in the principal case is in accord with the previously announced doctrine that where a stock-broker has in his possession at the time of his bankruptcy, certificates of stock, placed in his hands by a customer but not yet sold, or stock bought for a customer but not yet delivered to him, he holds the same as an agent or bailee; and the stock may be reclaimed from his trustee in bankruptcy. *In re James Corothers & Co.,* 182 Fed. 501. And it is immaterial that the certificates found in bankrupt's possession are not identical with those bailed or appropriated to the customer as his property by the purchasing broker, since certificates of stock are but indicia of the property in the shares and not the stock itself; and as one share of stock is not different in kind or quantity from every other share, of the same issue and company, the owners of such in the bankrupt's possession,—as in the case of grain in elevators, which has been indiscriminately mixed and has lost its separate identification thereby—are tenants in common of the sum total or mass. *Richardson* v. *Shaw,* 209 U. S. 365. In *Gorman* v. *Littlefield,* 229 U. S. 19, recovery of 250 shares out of 350

like shares passing into trustee in bankruptcy's hands was allowed—the trustee and the claimant being treated as tenants in common of the whole. The decision reversed the lower court which denied recovery because the stock certificates could not be identified as claimant's property. The distinction between the latter and the principal case is purely mathematical. In *Gorman* v. *Littlefield* the number of shares passing to the trustee exceeded the number subject to demand by the customers; in the principal case the sum total of shares passing to the trustee is less than the number subject to demand. The court seems to have applied the rule with equal precision in both cases.

BANKS AND BANKING—NEGLIGENCE BY DEPOSITOR AFTER DISCOVERING FORGERY OF CHECK.—Plaintiff depositor drew a check on defendant bank, which honored it when presented for payment. It developed that the payee's indorsement was forged. After the check had been cashed, plaintiff discovered the forgery, but did not inform the bank until 43 days after obtaining the information. *Held,* plaintiff nonsuited because of such negligence. *Connors* v. *Old Forge Discount Bank* (Pa. 1914) 91 Atl. 210.

The accepted rule is that payment by a bank upon a forged indorsement, of a check payable to order, is not binding upon the drawer. *Welsh* v. *German Am. Bank,* 73 N. Y. 424. But when a depositor discovers that a bank has paid and charged to his account either a check bearing his forged signature as drawer, or his check on the forged indorsement of the payee, it is his duty to notify the bank promptly of the forgery. If he fails to notify promptly, he cannot recover from the bank, irrespective of whether the latter could have protected itself or not. *McNeely* v. *Bank,* 221 Pa. 588, 70 Atl. 891. In the latter case no notice was given for nearly three months. It was decided on the theory that by such negligence the depositor withheld from the bank a substantial *right* of proceeding promptly against the forger. The decision is important in holding that the bank need not give evidence showing it could have protected itself, if notified. To same effect, *Leather Mnf's Bank* v. *Morgan,* 117 U. S. 96, 6 Sup. Ct. 657; *Voorhis* v. *Olmstead,* 66 N. Y. 113, 118; *Fall River Bank* v. *Buffinton,* 97 Mass. 498. In *United States* v. *Nat. Exch. Bank,* 45 Fed. 163 the court went even further and held that neglect of the drawer, for over one month after discovering the check had been paid on a forged indorsement, to notify bank that it would be held responsible, released the bank from liability, even though it had notice of the forgery as soon as the drawer had. The instant case must be distinguished from cases in which the depositor is negligent in *discovering* the forgery (as by not looking at returned checks, for instance), and from cases in which the depositor has notified the bank of the forgery but has not tendered back the check for a considerable time. *Cook* v. *U. S.,* 91 U. S. 402; *Ellis* v. *Trust Co.,* 4 Ohio St. 662; *Schroeder* v. *Harvey,* 75 Ill. 639; *Brixen* v. *Nat. Bank,* 5 Utah 504, 18 Pac. 43. This distinction explains in part the doctrine of a few cases holding that the bank must show actual damage resulting to it because of no notification. A few other cases are flatly contrary to the instant case on this